

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA 98 JUN 30 PM 2:51
NORTHEASTERN DIVISION U.S. DISTRICT COURT
N.D. OF ALABAMA

EDWARD POWELL,)
)
 Plaintiff,)
)
 vs.) CV 97-S-2676-NE
)
 MS. HEARNE, WARDEN HOOKS,)
 WARDEN WISE, COMMISSIONER)
 JOE HOPPER, and PAUL WHALEY,)
)
 Defendants.)

ENTERED

JUN 30 1998

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MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on June 5, 1998, recommending that the defendants' motion for summary judgment be granted and this cause be dismissed with prejudice. No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendants are entitled to judgment as a matter of law. Accordingly, defendants' motion for

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summary judgment is due to be GRANTED and this action is due to be DISMISSED WITH PREJUDICE. A Final Judgment will be entered.

DONE this the 30th day of June, 1998.


Edward Smith
UNITED STATES DISTRICT JUDGE

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Miguel J. Cortez
Clerk

In Reply Give Number
Of Case and Names of Parties

NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$100 docket fee plus \$5 filing fee (for a total of \$105) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you either:

- (1) Pay the total \$105 fee to the clerk of the district court from which this case arose; or
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the greater of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$105 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$105 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, but the total \$105 fee will be assessed against and will be deducted from future deposits to your prison account.)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$105 fee is collected, even if an appeal is unsuccessful.

MIGUEL J. CORTEZ
Clerk

PLRA Notice
Rev.: 6/96